United Nations A/59/526/Add.1

General Assembly

Distr.: General
10 February 2005

Original: English

Fifty-ninth session
Agenda items 114 and 115

Human resources management

Joint Inspection Unit

Report of the Joint Inspection Unit entitled "Review of the Headquarters Agreements Concluded by the Organizations of the United Nations System: Human Resources Issues Affecting Staff" (JIU/REP/2004/2)

Note by the Secretary-General

The Secretary-General has the honour to transmit, for the consideration of the General Assembly, his comments and those of the United Nations System Chief Executives Board for Coordination (CEB) on the report of the Joint Inspection Unit entitled "Review of the Headquarters Agreements Concluded by the Organizations of the United Nations System: Human Resources Issues Affecting Staff".

05-23462 (E) 280205

Summary

The report of the Joint Inspection Unit entitled "Review of the Headquarters Agreements Concluded by the Organizations of the United Nations System: Human Resources Issues Affecting Staff" concerns the identification of areas where adjustments in headquarters agreements might be advisable, particularly those areas deemed essential to the reform of human resources management. The report was also intended to contribute to the elaboration of model rules for future headquarters agreements and, where possible, the amendment of existing agreements.

The members of the United Nations System Chief Executives Board for Coordination (CEB) generally welcome the findings of the report and are broadly in agreement with its conclusions and recommendations. They regard it as a useful contribution to the law and practice of the United Nations system organizations and acknowledge in particular the value of the analysis of headquarters agreements as a key consideration in the enhancement of the conditions of service for the staff. CEB members also welcome and support the recommendations of the Joint Inspection Unit encouraging staff mobility, spouse employment and the proper implementation and respect of the privileges and immunities of the United Nations system organizations and their staff members by concerned government authorities that would redound to the strengthening of the effectiveness of the United Nations system as a whole.

I. Introduction

1. The objectives of the report of the Joint Inspection Unit entitled "Review of the Headquarters Agreements Concluded by the Organizations of the United Nations System: Human Resources Issues Affecting Staff" are to identify areas where adjustments in headquarters agreements might be advisable and to contribute to the elaboration of model provisions for future headquarters agreements, or amendment of existing agreements, with particular focus on human resources management issues. Among other aspects, the report recognizes the fact that a majority of United Nations system organizations were established decades ago and a good number of their headquarters agreements have been amended in some very specific areas in an effort to reflect present realities. The report focuses in particular on areas of human resources management affecting staff that arise in the headquarters agreements.

II. General comments

2. The members of the United Nations System Chief Executives Board for Coordination (CEB) appreciate the scope, timeliness and depth of the report of the Joint Inspection Unit and regard it as an important contribution to the development of the law and practice of the United Nations system organizations. The enhancement of conditions of service for staff is a key element of the human resources reform programme of the United Nations system organizations and in some areas can only be achieved through the modification to host-country agreements. CEB members particularly welcome the recommendations that support these changes as well as the full implementation of existing provisions.

3. There is broad satisfaction with the findings and recommendations of the Joint Inspection Unit, in particular recommendations 1, 4 and 7, which will serve to enhance enforcement of the Secretary-General's policy in favour of staff mobility, facilitate spousal employment and ensure proper implementation and respect for the privileges and immunities of the United Nations system organizations and their staff members by national authorities. These recommendations also ensure the provision of speedy travel facilities to which United Nations system staff members are entitled under article VII of the Convention on the Privileges and Immunities of the United Nations (the Convention).

4. CEB members note that a common theme throughout the recommendations is the need for more and better communication and information sharing, both for the host countries and the staff. Members of CEB support any effort to ensure that staff are provided with the pertinent information, as well as recognize the importance of making Member States fully aware of the implications of some of their restrictions and the need to give priority attention to standardizing conditions of service in the various duty stations.

5. The members of CEB are concerned that some of the recommendations contained in the report seem to disregard the framework applicable to experts on mission who, under article VI of the Convention, are also entitled to robust privileges and immunities. Due regard therefore should be given to experts on mission, particularly in connection with recommendations 4, 5 and 7. With respect to the latter, experts on mission travelling on official business are also entitled to speedy travel facilities in accordance with article VII of the Convention.

III. Specific comments on recommendations

Recommendation 1

The legislative bodies of the organizations should bring to the attention of the host countries the desirability of adopting, as appropriate, more liberal policies as regards the granting of work permits or the establishment of similar arrangements in favour of the spouses of staff members and officials of international organizations.

6. CEB members strongly support this recommendation. In so doing, however, they wish to remind Member States of the changing realities of international organizations and, in particular, that their sustained growth in number and scope of activities requires additional benefits to facilitate the operational activities and working conditions of the United Nations system organizations and their staff, beyond the fundamental rights recognized under the 1946 and 1947 Conventions. The issue of spousal employment remains one of the key factors still posing problems to the United Nations system organizations in attracting and retaining the right calibre of staff. The procedure in place in some host countries, whereby a spouse must have an offer of employment and then apply for a permit, is not favoured by some employers. CEB members therefore prefer either an automatic system, as offered by some host countries, wherein the issuance of a visa to a staff accredits the staff member's spouse with a work permit, or a system whereby employment permits are offered prior to seeking employment. Either way, the employment of spouses would be facilitated, as employers would be made immediately aware of their status. Employers would be more likely to offer employment if the process is made less complex than it currently is.

Recommendation 2

The legislative bodies of the organizations should remind the host countries of the importance of fully implementing the provisions of the headquarters agreements and ensuring the use of simplified procedures to facilitate the exercise of the privileges, immunities and benefits granted to the organizations and their staff members and officials, including in such areas as:

- **Granting of work permits for children and visas for domestic helpers**
- **Acquisition and rental of real property**
- **Integration into the social security system**
- **Retirement in the host country**
- **Tax exemption benefits, the issuance of special cards to be used in tax-free transactions, as well as the periodic review of the provisions on taxation, taking into account changes in domestic legislation as well as developments within the organizations.**

7. CEB members strongly support the implementation of all measures to facilitate the exercise of privileges and immunities in the areas highlighted in the recommendation. However, there is one particular exception, that is, integration into the social security system, which the Secretary-General seriously opposes on the

ground that it has been a consistent United Nations practice and policy, pursued by the Organization for more than five decades, that "mandatory" contributions for social security schemes under national legislation are considered a form of direct taxation on the United Nations and therefore contrary to article II, section 7, subparagraph (a), of the Convention. The Organization's exemption from national social security schemes is further evidenced by the fact that the United Nations has its own comprehensive social security scheme for United Nations staff members. The establishment of such a scheme is required under regulation 7.2 of the United Nations Staff Regulations, which are established by the General Assembly in accordance with Article 101 of the Charter of the United Nations.

Recommendation 3

In order to better acquaint staff, particularly new recruits and new arrivals at a duty station, with the contents of the host country agreements, the executive heads of organizations are requested to issue comprehensive information circulars and to publicize, by electronic and other appropriate means, the privileges, immunities and other benefits granted to staff members and officials, as well as their obligations.

8. Members of CEB point out that this recommendation is already being implemented. At the present time, the orientation programme of the United Nations for new staff provides basic information on educational, housing and taxation issues. Staff members are, however, referred to relevant substantive offices for counselling on specific situations that may arise during the course of their tenure. The administration also makes available to staff the relevant administrative instructions, which outline the procedures for obtaining permission for the employment of spouses and children in host countries. Additionally, information circulars are issued from time to time to draw the attention of staff members to significant changes in the tax system, although it remains the responsibility of the staff member to consult tax professionals and comply with the applicable laws. Staff members holding a visa with diplomatic status, their spouses and children are briefed by the Protocol and Liaison Service, which office is responsible for the registration of all United Nations diplomats.

Recommendation 4

The legislative bodies of the organizations should bring to the attention of the host countries the significance of adequately informing the local administration, public services and business communities, especially those situated outside the capital or seat of the various organizations, about the privileges, immunities and benefits granted to United Nations system organizations, their staff members and officials, so as to facilitate the exercise of these privileges, immunities and benefits and to ensure that the staff and officials of the organizations receive adequate cooperation and understanding in the fulfilment of their obligations.

9. This recommendation is acceptable.

Recommendation 5

The legislative bodies of the organizations should remind host countries of the desirability of ensuring that any additional facilities granted to intergovernmental organizations within the host country are extended to all United Nations system organizations, their staff and officials located in that territory.

10. This recommendation is acceptable.

Recommendation 6

Drawing on the findings of this report and other relevant information, the Secretary-General of the United Nations, in his capacity as Chairman of the Chief Executives Board for Coordination, should request CEB to coordinate the formulation of a model framework headquarters agreement, or at least standard articles ensuring uniformity for the approval of the General Assembly. Such a model framework, or standard articles, would be used to guide the conclusion of future and/or updating of existing headquarters agreements between United Nations system organizations and their host countries. A model framework headquarters agreement, or standard articles, should be without prejudice to any agreements already in existence which provide for more favourable conditions.

11. Members of CEB express reservations concerning this recommendation, as formulated. They note that, apart from the general expectation that it will be problematic to implement system-wide, it would not be realistic to expect that a model framework applicable to all organizations of the United Nations system would be able to capture all possible scenarios, including headquarters and field conditions and special circumstances, and their associated potential difficulties. Moreover, various existing host country agreements cover fundamentally different activities and operations, and different organizations have evolved over time customary regimes that are responsive to their particular assistance activities, locations and other unique circumstances. Therefore, a "one size fits all" approach may not be applicable.

Recommendation 7

The legislative bodies of the organizations should remind host countries of the significance of simplified procedures that would ensure the speedy processing of visas for staff and officials travelling on mission for United Nations organizations and prevent undue delays in the substantive work of the organization as well as limit possible financial losses.

12. This recommendation is acceptable.